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*"We change laws."*

December 3, 2013

Representative Kevin Cotter, Chair  
House Judiciary Committee  
124 North Capitol Avenue  
P.O. Box 30014  
Lansing, MI 48909-7514

<b>Regarding:</b>	<b>H.B. 4271 (Callton)</b>
<b>Position:</b>	<b>Support</b>

<b>Regarding:</b>	<b>H.B. 5201 (Kowall)</b>
<b>Position:</b>	<b>Support</b>

<b>Regarding:</b>	<b>S.B. 660 (Kahn)</b>
<b>Position:</b>	<b>Oppose</b>

Dear Chairman Cotter:

In concert with thousands of supporters in Michigan and over 125,000 nationwide, the Marijuana Policy Project works toward sensible marijuana policy reform on both the state and federal levels. The Marijuana Policy Project was the primary financial supporter and drafter of the Michigan Medical Marihuana Act (MMMA), which was approved by 63% of voters on November 4, 2008 — including a majority in each of the state's 83 counties. As an organization, we represent thousands of individuals across Michigan and in the other 19 medical marijuana states. We write today in support of HB 4271 (Callton) and HB 5104 (Kowall), and in opposition to SB 660 (Kahn).

#### **House Bill 4271**

HB 4271 addresses something for which the MMMA did not provide — safe access to medical marijuana from regulated entities. When we drafted the MMMA, no state explicitly provided for the licensing and regulation of dispensaries. At the time, only California had a significant number of dispensaries, which were typically not regulated or licensed. They were frequently subjected to raids by the federal government. As you know, the choice was made leading up to the MMMA's passage not to include licensing or regulation of dispensaries. As drafters, we hoped and expected that the MMMA would later be amended to address this omission as other states' laws and federal policy evolved.

It has been six years since we drafted the MMMA, both the laws of other states and federal policy have indeed evolved. The laws of 13 states and Washington, D.C. now explicitly allow licensed, regulated dispensaries.<sup>1</sup> Experience has shown that well-regulated dispensaries can be valuable community members and provide much needed revenue both to state and local governments. Most importantly, they are vital to patients' ability to have a safe, consistent supply of their medicine.

Regulation is not just a good and compassionate idea; it is now expected by the U.S. Department of Justice. On August 29 the U.S. Department of Justice issued a memorandum to federal prosecutors in which it established policy guidelines for states that allow marijuana-related activity. The cornerstone of this memo is its emphasis that states which enact regulations for citizens must also safeguard against several specifically-listed areas of federal concern. These priority areas included keeping money from being funneled to criminal organizations and preventing marijuana from being shipped to states that do not allow marijuana use. The policy statement also said that regulations should help keep criminals from using the state medical marijuana program as a front for illegal activity, prevent violence and the use of

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<sup>1</sup> Those states are Arizona, Colorado, Connecticut, Delaware, Illinois, Nevada, New Jersey, New Mexico, Oregon, Maine, Massachusetts, Rhode Island, and Vermont. Washington, D.C. also has a law regulating dispensaries. In addition, California allows "collectives" and "cooperatives," which cities may regulate. Also, Washington State will allow regulated adult-use stores in 2014.

firearms in the cultivation of marijuana, prevent drugged driving and the worsening public health risks, and keep marijuana off of public lands and federal property.

The Department of Justice was very clear about its expectations when it said “The Department’s guidance in this memorandum rests on its expectation that states and local governments that have enacted laws authorizing marijuana-related conduct will implement strong and effective regulatory and enforcement systems that will address the threat those state laws could pose to public safety, public health, and other law enforcement interests.”

HB 4271 is a reasonable and practical solution, which was developed in the context of today’s laws — both state and federal. Whether through regulations directly imposed by the bill language or through regulations that can be imposed through local ordinances in cities that choose to allow dispensaries, Rep. Callton’s bill is legislation that is in the best interests of all Michiganders.

Not only is HB 4271 within Michigan’s authority to enact and meets U.S. Department of Justice policy guidelines, it is also the right thing to do. There is no other medicine or food that state law requires its residents to either grow on their own or find someone willing to do it for them. A seriously ill patient’s health should not depend on their own green thumb or ability to find a small-scale, unregulated marijuana grower. It can take several months for a planted marijuana seed to produce harvestable marijuana — assuming all goes right. Patients should not have to wait months for a medicine that can give them back some quality of life.

HB 4271 takes a modest approach. The bill would allow dispensaries only in those municipalities that choose to allow and regulate them. For those locations, the bill would establish uniform, statewide rules for dispensaries, including distance limitations from schools, prohibitions against the on-site consumption of marijuana, and requirements for the presence of warning labels. It would also prohibit TV and radio ads for marijuana sales and allow the Department of Licensing and Regulatory Affairs to develop additional restrictions on advertising. Medical marijuana would be tested as safe for consumers and available at well-regulated, state-licensed locations.

Finally HB 4271 is very simple for the state to implement in both a pragmatic and realistic way. By leaving the regulation to those cities that have chosen to allow and regulate dispensaries, Michigan would not have to set up a new regulatory regime or expend its limited resources. No state worker would have to license or inspect dispensaries. Instead, cities could choose to do so. This straightforward bill reduces the heavy hand of the state government’s criminal penalties and allows localities to provide for the welfare of their seriously ill residents as they see fit.

#### **House Bill 5104**

Similarly, HB 5104 provides a practical solution for a present and pressing challenge. A recent Michigan Court of Appeals decision<sup>2</sup> found that possession of non-smokable forms of marijuana including edibles, tinctures and topicals, can lead to arrest. Most doctors want patients to avoid smoking and many medical marijuana patients prefer administering their medicine via methods other than smoking for a wide variety of reasons. Some are concerned about the health risks of taking smoke into their lungs. Others may choose not to smoke in a residence, whether through the presence of non-patients including children, or because a landlord may prohibit smoking medical marijuana at the residence. Finally, for patients such as skin cancer patients who require a topical form of medical marijuana, smoking is not an option under any circumstances.

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<sup>2</sup> People v. Carruthers, 301 Mich. App. 590, 837 N.W.2d 16 (2013)

Michigan's law should ensure that patients have the option of using marijuana in the form that is the best and safest for them. Unfortunately, the court ruling leaves many patients with little choice. HB 5104 provides many patients with a better option, and allows them to administer marijuana in other forms such as tinctures, topical and edible forms. This is a common sense ruling and restores the original intent of the law.

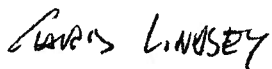
**Senate Bill 660**

Unlike Rep. Callton's and Rep. Kowall's practical solutions to real problems faced by Michiganders today, SB 660 is little more than wishful thinking which will have no effect for Michigan's citizens and represents a waste of time for lawmakers.

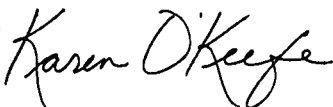
This misguided bill requires federal law to change in very specific ways in order to go into effect, despite the federal government's repeated statements that it will not change its laws. Even if the federal government were to make a sudden about face on all its previous statements, the bill represents a gamble that the federal government would regulate marijuana differently than any other controlled substance. The bill is simply a fiction hoping one day to be a fact. I hope the Michigan legislature will focus its attention and resources on a realistic solution, and not simply a medical marijuana pipe dream.

Thank you for your work on the important issue of medical marijuana access for Michigan's seriously ill patients. Please let us know if you have any questions.

Sincerely,



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